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EXAMINER

MA, JOHNNY

ART UNIT

PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/726,367

Applicant(s)

CHAPMAN ET AL.

Examiner

Johnny Ma

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 9/26/2005 have been fully considered but they are not persuasive.

Regarding claim 1, Applicant argues "claim 1 recites a 'service channel', not a 'channel' ...and the Second Office Action's interpretation of the term 'channel' is inconsistent with claim one's recitation of a 'service channel'" (Remarks pg. 12, paragraph 3). The examiner respectfully disagrees and it is noted that the features upon which applicant relies (i.e., service channel distinguished from a channel) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). It is also noted that the Klosterman reference discloses providing program guide information and programming (services) to viewers (Klosterman 2:16-41). Furthermore, "Channel" is defined as "[a] band of frequencies" (see The Authoritative Dictionary of IEEE Standards Terms, 7th Edition). Thus, the satellite broadcast channel as discussed in the previous Office Action is a band of channels used by satellites to broadcast services, it is unclear why such a definition is inconsistent with a service channel.

Applicant further argues "[s]econd, the Second Office Action's interpretation of the term 'channel' is inconsistent with Klosterman itself. Klosterman refers to local channels, television channels and the like, but never refers to the signals transmitted by both satellites as a 'channel.'" The Examiner agrees that Klosterman itself does not explicitly refer to signals transmitted by both satellites as channels. However, the examiner respectfully disagrees that the term "satellite

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broadcast channel” is inconsistent with Klosterman itself. “Channel” is defined as “[a] band of frequencies” (see The Authoritative Dictionary of IEEE Standards Terms, 7th Edition). Thus, a satellite broadcast channel as discussed in the previous Office Action is a band of channels used by satellites to broadcast data, it is unclear why such a definition is inconsistent with Klosterman which fails to disclose a contradictory definition of a satellite channel. Klosterman, in one embodiment, discloses television channel broadcasts over two different satellites (Klosterman 3:9-16), the broadcasts by the two different satellites, satellites broadcast data over various frequencies, the band of frequencies used by the satellites for broadcasting data equates to a satellite channel as defined above.

Applicant also argues “[t]hird, if the Second Office Action’s ‘satellite channel’ encompasses signals with different content, each transmitted on the same ‘satellite broadcast channel’, Klosterman is still unavailing because claim 1 recites that the first and the second signals differ in a fundamental signal characteristic” (Remarks pg. 12, paragraph 5). Thus the examiner submits that Applicant is arguing against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant also argues “[t]he Second Office Action’s interpretation of the term ‘channel’ is also impermissible because claim one recites that the first program guide information is broadcast on a first service channel on a first signal, not a first signal on a ‘satellite broadcast channel’ or any other kind of channel. The Examiner respectfully disagrees, it is noted that claim 1 recites “a first service channel” but does not further define the term. Thus, in response to

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applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a special definition of service channel distinguished from a satellite broadcast channel) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant also argues "[c]laim 1 also recites that the second program guide information is broadcast to a subset of the subscribers. The Second Office Action has not indicated where this feature is found in the references of record." The Examiner respectfully disagrees. As discussed in the previous Office Action "program guide information can be received through cable box 26, other inputs 30, antennae 34, and/or through any other transmission medium... Each of these sources may also be provided with television schedule data within the signal transmitted by the service provider... wherein the second program guide info may comprise local channels... the recipients of the local channels comprising a subset of the DBS channels." The examiner respectfully submits, that the recipients of the local channels/guide are a subset of the recipients of the DBS channels/guide wherein a subset of the DBS channel recipients may comprise all DBS channel recipients. Furthermore, local channels correspond to specific localities, the recipients of the DBS channels/guide (non-local channels) also receive local channels specific to their geographic location resulting in the recipients of the local channels/guide comprising a subset of the recipients of the DBS channels/guide.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on

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obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In regard to applicant's argument "rebuttal of a prima facie case of obviousness does not require that the Applicant show that the modification be precluded. All that is required is to show that the art relied upon teaches away from the Applicants' invention." However, the examiner submits that Applicant has not cited any portion of Klosterman that explicitly teaches away from the combination "in order to alleviate the need to move the satellite dish for receipt of signals from a second source." Klosterman's teaching of teaching physical diversity between the signals and that the signals do not differ in a fundamental signal characteristic does not explicitly teach away from using alternative methods for receiving transmissions for plural satellite transmitters.

2. Regarding claim 23, please see the response to arguments in regard to claim 1.

Applicant further argues "[t]elelevision program signals received on a satellite dish 29 are not received on the same channel (the first service channel of claim 23) channel as those received through a cable box 26, other inputs 30, antenna 34, and a dedicated twisted pair telephone line." Although the examiner agrees with Applicant's statement, the Examiner respectfully submits that Applicant has mischaracterized rejection of claim 23. The previous Office Action discusses the claimed "second transmitter, communicatively coupled to the compiler, for transmitting the second program guide information describing the second set of programs on the first service

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channel on a second signal” is met by “program guide information can be received through cable box 26, other inputs 30, antennae 34, and/or through any other transmission medium (e.g., dedicated twisted pair telephone line). Each of these sources may also be provided with television schedule data within the signal transmitted by the service provider” (Klosterman 4:66-5:4) wherein the second program guide info may comprise local channels (Klosterman 3:38-40) the recipients of the local channels comprising a subset of the DBS channels. Note the Klosterman reference discloses “television channel broadcasts are received from at least two separate sources such as (1) cable and a satellite dish, or (2) two different satellites, or (3) local cable and DBS sources” (Klosterman 3:9-14). The examiner respectfully submits that the transmission of television signals by two different satellites are clearly received on a satellite dish. Thus the disclosure of using two different satellites satisfies the receipt of data on the same channel, a satellite broadcast channel.

Finally, Applicant argues “Applicants also disagree that there is a teaching to combine the Klosterman and Thomas references.” In response to applicant's argument that “[s]ince Klosterman and Thomas plainly teach entirely different approaches to the same problem, the Applicants cannot agree that there is any teaching to combine the them,” the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Claim Rejections - 35 USC § 103

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 9-11, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,072,983) in further view of Eastman (US 5,940,737).

As to claim 1, note the Klosterman reference that discloses merging multi-source information in a television system wherein sources of television schedule guide information include “an incoming cable line (e.g., on a coax cable), satellite broadcasts, a dedicated telephone line (e.g., twisted pair), and any other medium capable of transmitting a signal” (Klosterman 3:5-10). The claimed “broadcasting first program guide information describing a first set of programs to the subscribers on a first service channel on the first signal” is met by “IRD box 28 receives television programs along with other information via, in one embodiment, satellite dish 29. IRD box 28 then provides program schedule information to the system” (Klosterman 4:55-58) wherein broadcasting is inherent to receipt of the television programs and other information. The claimed “broadcasting second program guide information describing the second set of programs to a subset of the subscribers on the first service channel on the second signal” is met by “program guide information can be received through cable box 26, other inputs 30, antennae 34, and/or through any other transmission medium (e.g., dedicated twisted pair telephone line). Each of these sources may also be provided with television schedule data within the signal transmitted by the service provider” (Klosterman 4:66-5:4) wherein the second program guide info may comprise local channels (Klosterman 3:38-40) the recipients of the local

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channels comprising a subset of the DBS channels. Note the Klosterman reference discloses “television channel broadcasts are received from at least two separate sources such as (1) cable and a satellite dish, or (2) two different satellites, or (3) local cable and DBS sources” (Klosterman 3:9-14). However, the Klosterman reference is silent as to different fundamental signal characteristics. Now note the Eastman reference that discloses a signal selector. The claimed “wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal” is met by “satellite signals having a given characteristic (e.g., satellite location, downlink frequency, and/or polarization state)” (Eastman 1:59-62). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman broadcast sources with the Eastman signals having different characteristics for the purpose of providing additional programming choices to viewers and providing multiple program broadcast sources to users while minimizing interference.

As to claim 2, the claimed “wherein the fundamental signal characteristic is carrier frequency, and the first signal is characterized by a first carrier frequency and the second signal is characterized by a second carrier frequency” is met by that discussed in the rejection of claim 1.

As to claim 3, please see rejection of claim 1.

As to claim 9, note the Klosterman reference that discloses merging multi-source information in a television system wherein sources of television schedule guide information include “an incoming cable line (e.g., on a coax cable), satellite broadcasts, a dedicated telephone line (e.g., twisted pair), and any other medium capable of transmitting a signal”

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(Klosterman 3:5-10). The claimed “receiving first program guide information describing the first set of programs on the first service channel on the first signal” is met by “IRD box 28 receives television programs along with other information via, in one embodiment, satellite dish 29. IRD box 28 then provides program schedule information to the system” (Klosterman 4:55-58) wherein broadcasting is inherent to receipt of the television programs and other information. The claimed “receiving second program guide information describing the second set of programs on the first service channel on the second signal” is met by “program guide information can be received through cable box 26, other inputs 30, antennae 34, and/or through any other transmission medium (e.g., dedicated twisted pair telephone line). Each of these sources may also be provided with television schedule data within the signal transmitted by the service provider” (Klosterman 4:66-5:4) wherein the second program guide info may comprise local channels (Klosterman 3:38-40) the recipients of the local channels comprising a subset of the DBS channels. Note the Klosterman reference discloses “television channel broadcasts are received from at least two separate sources such as (1) cable and a satellite dish, or (2) two different satellites, or (3) local cable and DBS sources” (Klosterman 3:9-14). However, the Klosterman reference is silent as to different fundamental signal characteristics. Now note the Eastman reference that discloses a signal selector. The claimed “wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal” is met by “satellite signals having a given characteristic (e.g., satellite location, downlink frequency, and/or polarization state)” (Eastman 1:59-62). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman broadcast sources with the Eastman signals having different

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characteristics for the purpose of providing additional programming choices to viewers and providing multiple program broadcast sources to users while minimizing interference.

As to claim 10, please see rejection of claim 9.

As to claim 11, please see rejection of claim 9.

As to claim 16, note the Klosterman reference that discloses merging multi-source information in a television system wherein sources of television schedule guide information include “an incoming cable line (e.g., on a coax cable), satellite broadcasts, a dedicated telephone line (e.g., twisted pair), and any other medium capable of transmitting a signal” (Klosterman 3:5-10). The claimed “user interface for accepting subscriber commands” is met by “[r]emote 32 can be utilized by the user to program coordinator 20 or to move between different channels, times and shows in grid guide 50” (Klosterman 8:5-7). The claimed “tuner selectably configurable to receive a first service channel on a first signal and the first service channel on a second signal” is met by “[t]he coordinator switches between DBS and other available source(s) received on line 49. After the coordinator has switched and tuned to the desired channel, that channel is displayed on television display 23 (Klosterman 5:53-58). The claimed “the first signal comprising a first set of programs and first program information describing the first set of programs” is met by “IRD box 28 receives television programs along with other information via, in one embodiment, satellite dish 29. IRD box 28 then provides program schedule information to the system” (Klosterman 4:55-58) wherein broadcasting is inherent to receipt of the television programs and other information. The claimed “second signal comprising a second set of programs and second program guide information describing the second set of programs” is met by “program guide information can be received through cable box 26, other inputs 30, antennae

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34, and/or through any other transmission medium (e.g., dedicated twisted pair telephone line).

Each of these sources may also be provided with television schedule data within the signal transmitted by the service provider” (Klosterman 4:66-5:4) wherein the second program guide info may comprise local channels (Klosterman 3:38-40) the recipients of the local channels comprising a subset of the DBS channels. Note the Klosterman reference discloses “television channel broadcasts are received from at least two separate sources such as (1) cable and a satellite dish, or (2) two different satellites, or (3) local cable and DBS sources” (Klosterman 3:9-14). However, the Klosterman reference is silent as to different fundamental signal characteristics. Now note the Eastman reference that discloses a signal selector. The claimed “wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal” is met by “satellite signals having a given characteristic (e.g., satellite location, downlink frequency, and/or polarization state)” (Eastman 1:59-62).

Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman broadcast sources with the Eastman signals having different characteristics for the purpose of providing additional programming choices to viewers and providing multiple program broadcast sources to users while minimizing interference. The claimed “processor, communicatively coupled to the user interface and the tuner, for retrieving the first program information and the second program information for providing the first and second program information to a presentation device, and for accepting subscriber commands from the user interface” is met by “[c]oordinator 20 includes processor (CPU) 36 and memory (RAM)...and receives input from the remote” (Klosterman 4:27-40) wherein the coordinator takes the television schedule information from the available

source(s) or a data input line and sorts/mixes it (Klosterman 5:64-67) and subsequently displayed (Klosterman 6:45-67).

As to claim 17, please see rejection of claim 16.

As to claim 18, please see rejection of claim 16

5. Claims 4, 5, 12, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,072,983) in further view of Eastman (US 5,940,737) and Stinebruner (US 6,133,910).

As to claim 4, the claimed “wherein the first program guide information includes information describing at least one surrogate channel.” Note the Klosterman reference discloses “television schedule guide information can be received from numerous sources” (Klosterman 3:4-5) and the guide information is merged (Klosterman 6:14-17). However, the Klosterman reference is silent as to a surrogate channel. Now note the Stinebruner reference that discloses an apparatus and method for integrating a plurality of video sources. The claimed “wherein the first program guide information includes information describing at least one surrogate channel” is met by “[a] DBS content provider may even allocate blank channels to local programming” (Stinebruner 7:27-35). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman multiple program guide information sources with the Stinebruner surrogate channels for the purpose of allowing “individual users in different areas of the country could map local channels to the blank channels without having to move the overlapped channels to other virtual channels” (Stinebruner 7:30-35).

As to claim 5, the claimed “wherein a subscriber selection of at least one of the at least one surrogate channels commands reception of the second signal” is met by the Klosterman and Stinebruner combination wherein if the user selects a channel from a second source then the second source is selected and the appropriate channel tuned (Klosterman 8:25-62).

As to claim 12, the claimed “wherein the first program guide information includes information describing at least one surrogate channel.” Note the Klosterman reference discloses “television schedule guide information can be received from numerous sources” (Klosterman 3:4-5) and the guide information is merged (Klosterman 6:14-17). However, the Klosterman reference is silent as to a surrogate channel. Now note the Stinebruner reference that discloses an apparatus and method for integrating a plurality of video sources. The claimed “wherein the first program guide information includes information describing at least one surrogate channel” is met by “[a] DBS content provider may even allocate blank channels to local programming” (Stinebruner 7:27-35). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman multiple program guide information sources with the Stinebruner surrogate channels for the purpose of allowing “individual users in different areas of the country could map local channels to the blank channels without having to move the overlapped channels to other virtual channels” (Stinebruner 7:30-35). The claimed “accepting a selection of at least one of the at least one surrogate channels in a receiver; and receiving the second signal at the second carrier frequency on the first service channel” is met by the Klosterman and Stinebruner combination wherein if the user selects a channel from a second source then the second source is selected and the appropriate channel tuned (Klosterman 8:25-62).

As to claim 19, the claimed “wherein the first program guide information includes information describing at least one surrogate channel.” Note the Klosterman reference discloses “television schedule guide information can be received from numerous sources” (Klosterman 3:4-5) and the guide information is merged (Klosterman 6:14-17). However, the Klosterman reference is silent as to a surrogate channel. Now note the Stinebruner reference that discloses an apparatus and method for integrating a plurality of video sources. The claimed “wherein the first program guide information includes information describing at least one surrogate channel” is met by “[a] DBS content provider may even allocate blank channels to local programming” (Stinebruner 7:27-35). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman multiple program guide information sources with the Stinebruner surrogate channels for the purpose of allowing “individual users in different areas of the country could map local channels to the blank channels without having to move the overlapped channels to other virtual channels” (Stinebruner 7:30-35). The claimed “the subscriber commands include a command to select at least one of the at least one surrogate channels; and the processor further tunes the tuner to receive the second program guide information in response to the command to select at least one of the at least one surrogate channels” is met by the Klosterman and Stinebruner combination wherein if the user selects a channel from a second source then the second source is selected and the appropriate channel tuned (Klosterman 8:25-62).

6. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,072,983) in further view of Eastman (US 5,940,737) and Norin et al. (US 6,434,384).

As to claim 6, the claimed “wherein the second signal is a spot beam directed at the subset of subscribers.” Note the Klosterman reference discloses “television channel broadcasts are received from at least two separate sources such as (1) cable and a satellite dish, or (2) two different satellites, or (3) local cable and DBS sources” (Klosterman 3:9-14). The Klosterman reference also discloses a DBS/local channels implementation (Klosterman 3:38-40). However, the Klosterman reference is silent as to the second signal being a spot beam. Now note the Norin reference that discloses spot beaming (Norin 2:22-26) a second (i.e., local) signal to a subset of subscribers designated to receive said second set of programs (i.e., local television broadcast as opposed to larger regional broadcast) (Norin 2:12-15), for the purpose of allowing for a cost effective way of achieving higher overall system throughput (i.e. spot beaming allows an efficient method of transmitting both local and regional broadcasts) (Norin 2:17-26). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman separate sources via satellites with local channels with the Norin spot beam directed at the subset of subscribers designated to receive the second set of programs, for the purpose of allowing for a cost effective way of providing higher overall capacity to a given geographic region in a satellite broadcast system.

As to claim 7, please see rejection of claim 6 wherein the discussed spot beam is directed at a subset of subscribers.

7. Claim 13-14 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,072,983) in further view of Eastman (US 5,940,737), Stinebruner (US 6,133,910), and Norin et al. (US 6,434,384).

As to claim 13, the claimed “wherein the second signal is a spot beam directed at the receiver.” Note the Klosterman reference discloses “television channel broadcasts are received from at least two separate sources such as (1) cable and a satellite dish, or (2) two different satellites, or (3) local cable and DBS sources” (Klosterman 3:9-14). The Klosterman reference also discloses a DBS/local channels implementation (Klosterman 3:38-40). However, the Klosterman reference is silent as to the second signal being a spot beam. Now note the Norin reference that discloses spot beaming (Norin 2:22-26) a second (i.e., local) signal to a subset of subscribers designated to receive said second set of programs (i.e., local television broadcast as opposed to larger regional broadcast) (Norin 2:12-15), for the purpose of allowing for a cost effective way of achieving higher overall system throughput (i.e. spot beaming allows an efficient method of transmitting both local and regional broadcasts) (Norin 2:17-26). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman separate sources via satellites with local channels with the Norin spot beam directed at the subset of subscribers designated to receive the second set of programs, for the purpose of allowing for a cost effective way of providing higher overall capacity to a given geographic region in a satellite broadcast system.

As to claim 14, please see rejection of claim 13 wherein the discussed spot beam comprises local programs and is directed at a subset of subscribers.

As to claim 20, the claimed “wherein the second signal is a spot beam directed at the receiver.” Note the Klosterman reference discloses “television channel broadcasts are received from at least two separate sources such as (1) cable and a satellite dish, or (2) two different satellites, or (3) local cable and DBS sources” (Klosterman 3:9-14). The Klosterman reference

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also discloses a DBS/local channels implementation (Klosterman 3:38-40). However, the Klosterman reference is silent as to the second signal being a spot beam. Now note the Norin reference that discloses spot beaming (Norin 2:22-26) a second (i.e., local) signal to a subset of subscribers designated to receive said second set of programs (i.e., local television broadcast as opposed to larger regional broadcast) (Norin 2:12-15), for the purpose of allowing for a cost effective way of achieving higher overall system throughput (i.e. spot beaming allows an efficient method of transmitting both local and regional broadcasts) (Norin 2:17-26). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman separate sources via satellites with local channels with the Norin spot beam directed at the subset of subscribers designated to receive the second set of programs, for the purpose of allowing for a cost effective way of providing higher overall capacity to a given geographic region in a satellite broadcast system.

As to claim 21, please see rejection of claim 20 wherein the discussed spot beam comprises local programs and is directed at a subset of subscribers.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,072,983) in further view of Eastman (US 5,940,737), Stinebruner (US 6,133,910), Norin et al. (US 6,434,384) and Eyer et al. (US 6,401,242).

As to claim 15, note the Klosterman reference discloses television schedule guide information and television channel broadcasts can be received from numerous sources (Klosterman 3:3-13). However, the Klosterman reference is silent as to “wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs.” Now note the Eyer et al. reference that

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discloses a method and apparatus for designating a preferred source to avoid duplicative programming services. The claimed “wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs” is met by some of the programming received from CATV may also be included in the program services transmitted via satellite wherein a CATV operator may prefer to have the CATV programming service recovered since CATV technology presently allows the insertion of local commercials (Eyer 6:23-39). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman television schedule guide with the Eyer duplicative programming for the purpose of avoiding duplicative programming services and allowing the designation of a preferred source so that users may be presented programming with local advertisements to improve advertisement revenue.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,072,983) in further view of Eastman (US 5,940,737), Stinebruner (US 6,133,910), and Eyer et al. (US 6,401,242).

As to claim 22, note the Klosterman reference discloses television schedule guide information and television channel broadcasts can be received from numerous sources (Klosterman 3:3-13). However, the Klosterman reference is silent as to “wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs.” Now note the Eyer et al. reference that discloses a method and apparatus for designating a preferred source to avoid duplicative programming services. The claimed “wherein the second signal further includes a portion of the

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first set of programs and the second program information further describes the portion of the first set of programs” is met by some of the programming received from CATV may also be included in the program services transmitted via satellite wherein a CATV operator may prefer to have the CATV programming service recovered since CATV technology presently allows the insertion of local commercials (Eyer 6:23-39). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman television schedule guide with the Eyer duplicative programming for the purpose of avoiding duplicative programming services and allowing the designation of a preferred source so that users may be presented programming with local advertisements to improve advertisement revenue.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,072,983) in further view of Eyer et al. (US 6,401,242) and Eastman (US 5,940,737).

As to claim 8, note the Klosterman reference discloses television schedule guide information and television channel broadcasts can be received from numerous sources (Klosterman 3:3-13). However, the Klosterman reference is silent as to “wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs.” Now note the Eyer et al. reference that discloses a method and apparatus for designating a preferred source to avoid duplicative programming services. The claimed “wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs” is met by some of the programming received from CATV may also be included in the program services transmitted via satellite wherein a CATV operator may prefer to have the

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CATV programming service recovered since CATV technology presently allows the insertion of local commercials (Eyer 6:23-39). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman television schedule guide with the Eyer duplicative programming for the purpose of avoiding duplicative programming services and allowing the designation of a preferred source so that users may be presented programming with local advertisements to improve advertisement revenue.

11. Claims 23-26, and 28, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,072,983) in further view of Thomas et al. (US 5,666,645) and Eastman (US 5,940,737).

As to claim 23, note the Klosterman reference that discloses merging multi-source information in a television system wherein sources of television schedule guide information include “an incoming cable line (e.g., on a coax cable), satellite broadcasts, a dedicated telephone line (e.g., twisted pair), and any other medium capable of transmitting a signal” (Klosterman 3:5-10). The claimed “a compiler, configured to segment the programs into the first set of programs and the second set of programs, and to generate first program guide information describing the first set of programs and second program guide information describing the second set of programs.” Note the Klosterman reference discloses each of the program sources may also provide television schedule data within the signal transmitted by the service provider (Klosterman 5:1-4) wherein the program guide data is segmented into distinct sets of programs and it is inherent that such program guide information be compiled. However, the Klosterman reference is silent as to a compiler configured to perform this function. Now note the Thomas et

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al. reference that discloses “[i]t is therefore an object of the present invention to provide an EPG data management and distribution system that collects data from multiple sources, processes the data to create a global database of television program schedule information, and distributes customized EPGs to a plurality of EPG providers (Thomas 3:43-47). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman transmission of EPG data with the Thomas et al. centralized segmentation of EPG data for the purpose of providing a central site/source that may parse all relevant program guide information and make such information available for broadcast without requiring each site to compile program data individually. The claimed “a first transmitter, communicatively coupled to the compiler, for transmitting first program guide information describing the first set of programs on a first service channel on the first signal is met by “IRD box 28 receives television programs along with other information via, in one embodiment, satellite dish 29. IRD box 28 then provides program schedule information to the system” (Klosterman 4:55-58) wherein broadcasting transmitter is inherent to receipt of the television programs and other information. The claimed “second transmitter, communicatively coupled to the compiler, for transmitting the second program guide information describing the second set of programs on the first service channel on the second signal” is met by “program guide information can be received through cable box 26, other inputs 30, antennae 34, and/or through any other transmission medium (e.g., dedicated twisted pair telephone line). Each of these sources may also be provided with television schedule data within the signal transmitted by the service provider” (Klosterman 4:66-5:4) wherein the second program guide info may comprise local channels (Klosterman 3:38-40) the recipients of the local channels comprising a

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subset of the DBS channels. Note the Klosterman reference discloses “television channel broadcasts are received from at least two separate sources such as (1) cable and a satellite dish, or (2) two different satellites, or (3) local cable and DBS sources” (Klosterman 3:9-14). However, the Klosterman reference is silent as to different fundamental signal characteristics. Now note the Eastman reference that discloses a signal selector. The claimed “wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal” is met by “satellite signals having a given characteristic (e.g., satellite location, downlink frequency, and/or polarization state)” (Eastman 1:59-62). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman broadcast sources with the Eastman signals having different characteristics for the purpose of providing additional programming choices to viewers and providing multiple program broadcast sources to users while minimizing interference.

As to claim 24, please see rejection of claim 23.

As to claim 25, please see rejection of claim 23.

As to claim 26, the claimed “wherein the first transmitter comprises a first transponder and the second transmitter comprises a second transponder” is met by television channel broadcasts are received from at least two separate sources such as two different satellites (Klosterman 3:10-13) wherein schedule information is provided (Klosterman 3:13-17). Note that transponders are inherent to satellites successful transmission of such information.

As to claim 28, the claimed “wherein the first transponder is disposed on a first satellite and the second transponder is disposed on a second satellite” is met by television channel

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broadcasts are received from at least two separate sources such as two different satellites (Klosterman 3:1-17) wherein a first transponder on a first satellite and a second transponder on a second satellite are inherent to their respective transmissions of programming and television schedule guide information. Further note, the Klosterman reference discloses “[f]urthermore, when program information is received from multiple satellite sources and a desired channel is selected, the preset invention can, in one embodiment, automatically move the customer’s satellite dish such that the customer receives the desired program from the associated source” (Klosterman 3:29-34). However, the Klosterman reference is silent as to the first satellite and the second satellite are disposed within a beamwidth of a receiver antenna. Nevertheless, the examiner gives Official Notice that it is notoriously well known in the art that plural satellites may be disposed within a beamwidth of a receiver antenna for the purpose of providing data from such plural satellites without requiring a receiver antenna to be repositioned each time data is needed from a particular satellite and for the purpose of alleviating the delay in repositioning a satellite to receive requested data. Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman plural satellite sources with the satellites disposed within a beamwidth of a receiver antenna for the above stated advantages.

12. Claims 27 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,072,983) in further view of Thomas et al. (US 5,666,645), Eastman (US 5,940,737), and Norin (US 6,434,384 B1).

As to claim 27, note the Klosterman reference discloses receiving television schedule guide and television channel broadcasts from numerous sources including two different satellites

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(Klosterman 3:1-17) wherein a first and second transponder are inherent to the transmission by the satellites, respectively. However, the Klosterman reference is silent as to “wherein the first transponder and the second transponder are disposed on a satellite.” Now note the Norin reference that discloses wherein a first and second transponder is disposed on a single satellite (i.e., there are multiple transponders on a single satellite, Norin) (Norin 7:41-46,58-59) for the purpose of reducing the antenna-to-antenna and satellite-to-satellite pointing differences associated with multiple satellite systems (Norin 7:63-65). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman plural satellites including transponders with the Norin first and second transponder disposed on a single satellite for the purpose of reducing the antenna-to-antenna and satellite-to-satellite pointing differences associated with multiple satellite systems, thereby providing an efficient broadcast system.

As to claim 31, the claimed “wherein the second signal is a spot beam directed at the subset of subscribers.” Note the Klosterman reference discloses “television channel broadcasts are received from at least two separate sources such as (1) cable and a satellite dish, or (2) two different satellites, or (3) local cable and DBS sources” (Klosterman 3:9-14). The Klosterman reference also discloses a DBS/local channels implementation (Klosterman 3:38-40). However, the Klosterman reference is silent as to the second signal being a spot beam. Now note the Norin reference that discloses spot beaming (Norin 2:22-26) a second (i.e., local) signal to a subset of subscribers designated to receive said second set of programs (i.e., local television broadcast as opposed to larger regional broadcast) (Norin 2:12-15), for the purpose of allowing for a cost effective way of achieving higher overall system throughput (i.e. spot beaming allows an

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efficient method of transmitting both local and regional broadcasts) (Norin 2:17-26). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman separate sources via satellites with local channels with the Norin spot beam directed at the subset of subscribers designated to receive the second set of programs, for the purpose of allowing for a cost effective way of providing higher overall capacity to a given geographic region in a satellite broadcast system.

As to claim 32, please see rejection of claim 6 wherein the discussed spot beam is directed at a subset of subscribers.

13. Claims 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,072,983) in further view of Thomas et al. (US 5,666,645), Eastman (US 5,940,737), and Stinebruner (US 6,133,910).

As to claim 29, the claimed “wherein the first program guide information includes information describing at least one surrogate channel.” Note the Klosterman reference discloses “television schedule guide information can be received from numerous sources” (Klosterman 3:4-5) and the guide information is merged (Klosterman 6:14-17). However, the Klosterman reference is silent as to a surrogate channel. Now note the Stinebruner reference that discloses an apparatus and method for integrating a plurality of video sources. The claimed “wherein the first program guide information includes information describing at least one surrogate channel” is met by “[a] DBS content provider may even allocate blank channels to local programming” (Stinebruner 7:27-35). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman multiple program guide information sources with the Stinebruner surrogate channels for the purpose of

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allowing “individual users in different areas of the country could map local channels to the blank channels without having to move the overlapped channels to other virtual channels” (Stinebruner 7:30-35).

As to claim 30, the claimed “wherein a subscriber selection of at least one of the at least one surrogate channels commands reception of the second signal” is met by the Klosterman and Stinebruner combination wherein if the user selects a channel from a second source then the second source is selected and the appropriate channel tuned (Klosterman 8:25-62).

14. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman (US 6,072,983) in further view of Thomas et al. (US 5,666,645), Eastman (US 5,940,737), and Eyer et al. (US 6,401,242).

As to claim 33, note the Klosterman reference discloses television schedule guide information and television channel broadcasts can be received from numerous sources (Klosterman 3:3-13). However, the Klosterman reference is silent as to “wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs.” Now note the Eyer et al. reference that discloses a method and apparatus for designating a preferred source to avoid duplicative programming services. The claimed “wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs” is met by some of the programming received from CATV may also be included in the program services transmitted via satellite wherein a CATV operator may prefer to have the CATV programming service recovered since CATV technology presently allows the insertion of local commercials (Eyer 6:23-39). Therefore, the examiner submits that it would have been

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obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman television schedule guide with the Eyer duplicative programming for the purpose of avoiding duplicative programming services and allowing the designation of a preferred source so that users may be presented programming with local advertisements to improve advertisement revenue.

15. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eyer et al. (EP 0 912 054 A2) in further view of Norin et al. (US 6,434,384 B1) and Eastman (US 5,940,737).

As to claim 1, note the Eyer et al. reference that discloses a multi-regional interactive program guide for television. The claimed “broadcasting first program guide information describing the first set of programs to the subscribers on a first service channel [...]” is met by “FIG. 4 illustrates the transmission and reception of global and regional IPG data in accordance with the present invention. IPG data bundles which are broadcast, e.g., over a satellite network to a user’s home, include global IPG data in a bundle 0 or B0 (400)” (Eyer [0071]). The claimed “broadcasting second program guide information describing the second set of programs to a subset of the subscribers on the first service channel [...]” is met by “FIG. 4 illustrates the transmission and reception of global and regional IPG data in accordance with the present invention. IPG data bundles which are broadcast, e.g., over a satellite network to a user’s home, include...IPG data for a specific IPG region, e.g., region A, in an associated bundle 1 or B1 (405), IPG data for a region B in an associated bundle B1 (410), and IPG data for a region C in an associated bundle B1 (415). Regions A, B and C are different IPG regions which are served by a common satellite broadcast network” (Eyer [0071]). However, the Eyer et al. reference does not specifically disclose broadcasting the first program guide information on the first signal

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and the second program guide information on the second signal. Now note the Norin et al. reference that discloses a non-uniform multi-beam satellite communications system and method. The Norin et al. reference further discloses spot beaming (Norin 2:22-26) a second (i.e., local) signal to a subset of subscribers designated to receive said second set of programs (i.e., local television broadcast as opposed to larger regional broadcast) (Norin 2:12-15). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Eyer et al. broadcasting of global IPG data and regional IPG data on the same signal with the Norin spot beaming of local content for the purpose of reducing processor load that would be required to filter out the received IPG data to extract the relevant region IPG data received by the set top box and reduce latency in requiring IPG data by eliminating the need to wait to extract the desired data from a carousel. However, the Eyer et al. and Norin combination fails to specifically teach “wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal.” Now note the Eastman reference that discloses a signal selector. The claimed “wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal” is met by “satellite signals having a given characteristic (e.g., satellite location, downlink frequency, and/or polarization state)” (Eastman 1:59-62). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Klosterman broadcast sources with the Eastman signals having different characteristics for the purpose of providing additional programming choices to viewers and providing multiple program broadcast sources to users while minimizing interference.

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnny Ma whose telephone number is (571) 272-7351. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jm

A handwritten signature in black ink, appearing to read 'Vivek Srivastava', with a stylized flourish at the end.

VIVEK SRIVASTAVA
PRIMARY EXAMINER